

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

SAMANTHA ALARIO, et al.,  
and  
TIKTOK INC.,  
vs.  
AUSTIN KNUDSEN, in his official  
capacity as Attorney General of the  
State of Montana,  
Defendant.

Lead Case No.  
CV 23-56-M-DWM

Member Case No.  
CV 23-61-M-DWM

ORDER

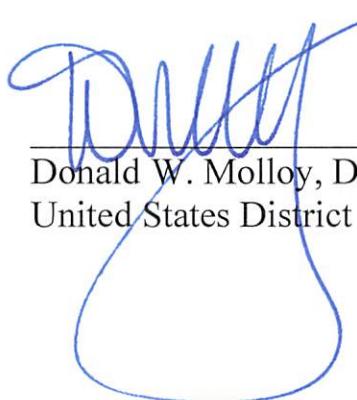
The parties in this case have filed a motion requesting “the Court’s guidance on whether the Court wishes to hear witness testimony at the hearing on October 12, 2023.” (Doc. 71.) The motion further indicates that “[a]bsent direction from the Court that witness testimony would assist the Court, the parties have stipulated that only argument from counsel will be presented.” (Doc.71).

Federal Rule of Civil Procedure 65(a)(2) provides a clue that is responsive to the joint motion, but which returns the answer to the question to counsel representing the parties in the proceeding. If the parties call witnesses, or if they rely solely on submitted affidavits, “the court may advance the trial on the merits

and consolidate it with the hearing. Even when consolidation is not ordered, evidence that is received on the motion and that would be admissible at trial becomes part of the trial record and need not be repeated at trial.” *Id.* Beyond some clarification of the parties’ intentions, the hearing will proceed according to the rules. There are time constraints to be considered but absent proof beyond the stipulation referenced, each party will be limited to no more than 30 minutes of argument.<sup>1</sup> No Amici will be permitted to argue. Accordingly,

IT IS ORDERED that the parties’ joint motion (Doc. 71) is GRANTED IN PART and DENIED IN PART as explained above.

DATED this 20<sup>th</sup> day of September, 2023.



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Donald W. Molloy, District Judge  
United States District Court

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<sup>1</sup> Is Article II § 7 of the Montana Constitution at issue in this case? “**Freedom of speech, expression, and press.** No law shall be passed impairing the freedom of speech or expression. Every person shall be free to speak or publish whatever he will on any subject, being responsible for all abuse of that liberty.”